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ACTION AF-01

INFO	LOG-00	AMAD-01	CIAE-00	C-01	DODE-00	EUR-01	HA-09
	H-01	INRE-00	INR-01	L-03	ADS-00	NSAE-00	NSCE-00
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INFO AMEMBASSY ADDIS ABABA  
AMEMBASSY BRUSSELS  
AMEMBASSY DAR ES SALAAM  
AMEMBASSY KAMPALA  
AMEMBASSY PARIS

C O N F I D E N T I A L SECTION 01 OF 03 KIGALI 04071

E.O. 12356: DECL:OADR  
TAGS: PREL, PGOV, RW  
SUBJECT: RWANDA PREPARES FOR ARUSHA III.B

1. C - ENTIRE TEXT.

#### SUMMARY

2. THE RWANDAN CABINET REACHED AGREEMENT SEPTEMBER 29 ON THE OUTLINE INSTRUCTIONS FOR THE GOR NEGOTIATORS FOR ARUSHA, INCLUDING FLEXIBLE POSITIONS  
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ON AMENDING THE CONSTITUTION AND ON DIVIDING THE PRESIDENT'S AUTHORITY. EVEN THOUGH SOME ISSUES REMAIN OPEN FOR FURTHER DEBATE, THIS WAS A REMARKABLE ACHIEVEMENT AFTER TWO WEEKS OF INTENSE POLITICAL BATTLES. FOREIGN MINISTER NGULINZIRA IS SATISFIED WITH THE INSTRUCTIONS. THE GOR STILL HOPES TO ORGANIZE A MEETING BETWEEN THE FIVE COALITION PARTIES AND THE RPF. END SUMMARY.

3. THE CABINET DEVOTED ITS ENTIRE SESSION SEPTEMBER

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29 TO A DISCUSSION OF NEGOTIATING INSTRUCTIONS FOR THE NEXT ROUND OF ARUSHA TALKS WITH THE RPF. THE ANNOUNCEMENT AFTER THE MEETING COVERED THE KEY POINTS FOR THE NEGOTIATORS:

-- THE POWER OF THE PRESIDENT OF THE REPUBLIC INCLUDING THE SEPARATION OF POWERS OF THE BRANCHES OF GOVERNMENT AND THE SEPARATION OF THE POWER OF THE HEAD OF STATE FROM THAT OF CHIEF EXECUTIVE.

-- THE TRANSITION GOVERNMENT ENLARGED TO INCLUDE RPF MEMBERSHIP.

-- THE ENLARGEMENT OF THE NATIONAL ASSEMBLY WITH THE CAVEAT THAT IT SHOULD BE REPRESENTATIVE.

-- THE COLLECTIVE RESIGNATION OF ALL ADMINISTRATIVE PERSONNEL AT THE TIME THE ACCORD COMES INTO EFFECT.

-- THE SUSPENSION OF THE CONSTITUTIONAL COURT AND THE  
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ADMINISTRATIVE COURT.

-- THE DURATION OF THE TRANSITION.

-- AND THE AMENDMENT OF THE CONSTITUTION AS NECESSARY IN ORDER TO ACHIEVE PEACE. (THIS COVERS ALSO THE ISSUE OF LEGAL GUARANTEES FOR THE PEACE AGREEMENT).

4. THE FIRST AND THE LAST POINTS ARE THE ONES OF GREATEST INTEREST. IN THE LAST POINT THE MRND AGREES TO AMENDMENTS TO THE CONSTITUTION IF NECESSARY FOR PEACE. WE UNDERSTAND THIS HAS BEEN AGREED BY THE PRESIDENT, ALTHOUGH THERE ARE NO DETAILS ABOUT WHAT ARTICLES MIGHT BE AMENDED OR HOW. NEVERTHELESS, A SIGNIFICANT PAGE HAS BEEN TURNED FOR THE NEGOTIATORS.

5. ON THE QUESTION OF PRESIDENTIAL POWERS, WE UNDERSTAND THAT A SMALL COMMITTEE WILL BE APPOINTED TO TRY TO SEPARATE THE POWERS OF THE PRESIDENCY FROM THE POWERS OF THE PRIME MINISTER. OPPOSITION LEADERS' OBJECTIVE IS TO LEAVE THE PRESIDENCY WITH ONLY CEREMONIAL POWER WHILE GIVING ALL EXECUTIVE AUTHORITY TO THE GOVERNMENT. THE CONSTITUTION IS NOT ALTOGETHER CLEAR ON THE SUBJECT, SO THERE IS SOME

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FLEXIBILITY WITHIN THE CURRENT LEGAL FRAMEWORK. BUT AT THE MOMENT IT IS NOT AT ALL CLEAR HOW MUCH LEEWAY THE NEGOTIATORS WILL HAVE TO ACTUALLY REDEFINE THE POWERS OF THE PRESIDENCY AT ARUSHA. AGAIN, THE SIGNIFICANT THING IS THAT THEY WILL BE AUTHORIZED TO DISCUSS THIS CENTRAL ISSUE IN THE ARUSHA CONTEXT.

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6. THE EARLIER RWANDAN PROPOSAL TO HAVE THE PEACE AGREEMENT TAKE PRECEDENCE OVER THE CONSTITUTION IS DEALT WITH BY THE CABINET CONSENSUS TO AMEND THE CONSTITUTION TO CONFORM TO THE PEACE ACCORD. IT IS NOT CLEAR HOW THIS WOULD WORK IN PRACTICE, BUT THE PRINCIPLE SEEMS AGREED. THE CABINET ALSO AGREED TO DISCUSS FURTHER THE NATIONAL ASSEMBLY, THE DURATION OF THE TRANSITION AND THE COLLECTIVE RESIGNATION OF CIVIL SERVANTS, LEAVING SOME QUESTION AS TO THE AUTHORITY OF THE NEGOTIATORS TO DISCUSS THOSE ISSUES IN ARUSHA.

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OTHER ISSUES  
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7. THE PL HAS COME UP WITH A DRAFT OF A FULL-SCALE REVISION OF THE CONSTITUTION WHICH IS UNDOUBTEDLY ALREADY AVAILABLE TO THE RPF. THESE PROPOSALS HAVE THE EFFECT OF SHIFTING EXECUTIVE AUTHORITY TO THE  
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PRIME MINISTER INCLUDING BORROWING FROM THE RPF DRAFT THE PROPOSITION WHICH GIVES THE PRESIDENT ONLY SEVEN DAYS IN WHICH TO COUNTER-SIGN GOVERNMENT DECISIONS AFTER WHICH THEY BECOME LAW.

8. THE PL HAS ALSO BEEN INSISTING ON APPOINTING A MEMBER OF THE NEGOTIATING TEAM. THE GOVERNMENT TRIED TO HEAD THIS OFF EARLIER BY OFFERING TO HAVE A MEETING WITH THE RPF WITH THE PARTIES. THIS CONTINUES TO BE THE GOVERNMENT'S POSITION, AND WE HAVE BEEN ASKED IF THERE IS ANY WAY THAT WE COULD HELP TO FINANCE SUCH A MEETING -- IF THE RPF SHOULD AGREE TO IT.

9. THE MDR AND THE PL HAVE RE-OPENED THE ISSUE OF A NATIONAL CONFERENCE. THE MDR CONTINUES TO TALK ABOUT A SOVEREIGN NATIONAL CONFERENCE, BUT ITS PRESIDENT HAS EXPRESSED SOME CONCERN ABOUT HOW ONE ARRIVES AT SUCH A CONFERENCE SINCE, ACCORDING TO THE GOVERNMENT PROTOCOL, THE GOVERNMENT MUST CONSIDER THE NATIONAL CONFERENCE AND MAKE RECOMMENDATIONS AND THIS HAS NOT YET TAKEN PLACE. PL LEADER MUGENZI CONSIDERS THE NATIONAL CONFERENCE AN IMPORTANT STEP WHICH WOULD

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PERHAPS BE LIMITED TO DRAFTING A NEW CONSTITUTION AND POSSIBLY APPROVING ELECTORAL LAWS IN ORDER TO HAVE THE BASIS FOR SENDING A DRAFT CONSTITUTION TO REFERENDUM AND HOLDING ELECTIONS SUBSEQUENTLY. NEITHER THE MDR NOR PL SEEMS TO KNOW HOW THE RPF FEELS ABOUT THE NATIONAL CONFERENCE IDEA AT THE PRESENT, ALTHOUGH THE RPF HAS SUPPORTED THIS IDEA IN THE PAST. HENCE IT IS A PROPOSITION WHICH MAY NOT

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HAVE A DIRECT CONNECTION TO THE ARUSHA DISCUSSIONS.

COMMENT

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10. AFTER THE ANGRY EXCHANGES OF LETTERS AND THE APPARENT DISARRAY IN GOVERNMENT AND OPPOSITION CIRCLES ON PEACE TACTICS, THE AGREEMENT OF THE CABINET ON NEGOTIATING INSTRUCTIONS WAS QUITE SIGNIFICANT. IT IS ALSO SIGNIFICANT THAT THE CABINET AGREED TO CLOSE NO DOORS ON ANY OF THE SUBJECTS, BUT RATHER TO HOLD THEM OPEN TO SEE WHAT MIGHT EMERGE FROM THE ARUSHA TALKS. ON THE OTHER HAND ONE COULD CONCLUDE THAT THE CABINET SIMPLY DUCKED THE ISSUES, AND PASSED THEM ON TO FURTHER DISCUSSION AFTER THE TALKS IN ARUSHA.

11. WHEN WE SAW HIM SEPTEMBER 30, FOREIGN MINISTER NGULINZIRA WAS DELIGHTED, SEEING THE VAGUENESS OF THE CABINET DECISIONS AS GIVING HIM LOTS OF ROOM FOR NEGOTIATIONS. THE PRIME MINISTER WAS REPORTED AS FEELING THAT THE SESSION WAS A VOTE OF CONFIDENCE IN HIM.

12. ACCORDING THE PRESIDENCY, THE MOST SHARPLY DEBATED ISSUE IN THE CABINET SESSION WAS THE COMPOSITION OF THE NATIONAL ASSEMBLY. THE OUTCOME SEEMED TO BE THAT IF THERE IS AGREEMENT ON A SHORT TRANSITION PERIOD THERE COULD SOMEHOW BE AN APPOINTED ASSEMBLY BECAUSE TO HAVE AN ELECTED ASSEMBLY WILL TAKE A SUBSTANTIAL LENGTH OF TIME. ANOTHER CRITICAL ISSUE IS IF THERE IS AN ASSEMBLY WITH MEMBERS

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APPOINTED BY PARTIES, HOW MANY PARTIES SHOULD BE  
INCLUDED, ONLY THE FIVE PLUS THE RPF, OR ALL OF THE  
OTHERS WHO WISH TO BE A PART OF THE POLITICAL PROCESS?

13. THE BOTTOM LINE IS THE NEGOTIATORS HAVE SPACE TO  
NEGOTIATE, AND THE HARD POLITICAL DECISIONS WHICH  
FACED US AT THE BEGINNING OF THE WEEK HAVE BEEN PUT  
OFF FOR ANOTHER TIME. IT MAY BE THAT THE  
NEGOTIATIONS IN ARUSHA WILL MAKE IT EASIER FOR THE  
GOVERNMENT TO DECIDE ON NEXT STEPS, BUT IT IS CLEAR  
THAT ALMOST ANYTHING THAT IS NEGOTIATED IN ARUSHA

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WILL HAVE TO COME BACK FOR FURTHER DISCUSSION WITHIN  
THE GOVERNMENT. END COMMENT.  
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